

HN 20-

BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

1. New Statutory Requirements

A statute which became effective January 21, 1963 (Public Law 87-849) revises law concerning bribery, graft, and conflicts of interest and related activities with respect to Government personnel.

2. Intended to Facilitate Recruitment

One of the main purposes of the statute is to assist the Government in obtaining the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For this purpose, the statute relaxes the conflicts-of-interest rules with respect to consultants, advisors and other experts.

3. Definitions

(a) A "special Government employee" is an employee who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full time or intermittent basis. In general, consultants, advisors and other experts are special Government employees.

(b) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

4. Requirements As To Special Government Employees

A special Government employee is in general subject only to the following major prohibitions:

(1)(a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

(2) He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

(3) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(4) He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph (3) if the matter is one in which he participated personally and substantially.

5. Requirements As To Other Employees

Any other employee of the Government is in general subject to the following major prohibitions:

(a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(b) He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

(c) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(d) He may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries

of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph (c) if the matter is one in which he participated personally and substantially.

(e) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

6. Agency Implementation

During January and July of each year, each Deputy Director and the Comptroller, the Inspector General and the General Counsel will bring to the attention of the employees under his supervision, the provisions of this notice.